

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GRANT COUNTY BLACK SANDS  
IRRIGATION DISTRICT  
(GCBSID), a Washington municipal  
corporation; and WILLIAMSON  
LAND COMPANY, a Washington  
Corporation,

## Plaintiffs,

NO. CV-06-204-RHW

V.

UNITED STATES OF AMERICA;  
BUREAU OF RECLAMATION;  
DIRK KEMPTHORNE, Secretary of  
the Interior of the United States of  
America; WILLIAM E. RINNE in  
his individual capacity; WILLIAM E.  
RINNE, Acting Commissioner of the  
Bureau of Reclamation; J. WILLIAM  
MCDONALD in his individual  
capacity; J. WILLIAM  
MCDONALD, in his capacity as  
Regional Director of the Pacific  
Northwest Region of the Bureau of  
Reclamation,

## Defendants.

## **ORDER DENYING PLAINTIFFS' MOTION FOR NEW TRIAL**

Before the Court is Plaintiff's Motion for New Trial (Ct. Rec. 188). The motion was heard without oral argument.

On March 7, 2008, the Court granted Defendants' Motion to Dismiss and denied Plaintiffs' Motion for Partial Summary Judgment. On March 21, 2008, Plaintiffs' filed their Motion for New Trial. Plaintiffs ask the Court to order a new trial, or in the alternative, amend the judgment because the Court erred in

**ORDER DENYING PLAINTIFFS' MOTION FOR NEW TRIAL ~ 1**

1 dismissing the Plaintiffs' claims.

2 Fed. R. Civ. P. 59 does not specify the grounds on which a motion for a new  
3 trial or motion for reconsideration may be granted, but allows new trials to be  
4 granted for historically recognized grounds. *Shimko v. Guenther*, 505 F.3d 987,  
5 993 (9<sup>th</sup> Cir. 2007). “The trial court may grant a new trial only if the verdict is  
6 contrary to the clear weight of the evidence, is based upon false or perjurious  
7 evidence, or to prevent a miscarriage of justice.” *Id.* (citations omitted).

8 “[A] motion for reconsideration should not be granted, absent highly unusual  
9 circumstances, unless the district court is presented with newly discovered  
10 evidence, committed clear error, or if there is an intervening change in the  
11 controlling law.” *Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890  
12 (9th Cir. 2000) (quoting *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665  
13 (9th Cir. 1999)). It is considered an “extraordinary remedy, to be used sparingly in  
14 the interests of finality and conservation of judicial resources.” *Id.* A motion  
15 under Rule 59(e) “may *not* be used to raise arguments or present evidence for the  
16 first time when they could reasonably have been raised earlier in the litigation.” *Id.*  
17 (emphasis in original).

18 Plaintiffs have not presented the Court with newly discovered evidence or an  
19 intervening change in controlling law. Rather, Plaintiffs attempt to re-argue their  
20 position that the Court has already considered when it denied their motions for  
21 summary judgment.

22 Accordingly, **IT IS HEREBY ORDERED:**

23 1. Plaintiffs' Motion for New Trial (Ct. Rec. 188) is **DENIED**.

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**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order and to provide copies to counsel.

**DATED** this 25<sup>th</sup> day of March, 2008.

s/Robert H. Whaley

ROBERT H. WHALEY  
Chief United States District Court

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